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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/442,756	11/18/1999	REINHARD BEUTH	9350-0144-0	6353

7590 05/23/2002

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EXAMINER

HON, SOW FUN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 05/23/2002

16

Please find below and/or attached an Office communication concerning this application or proceeding.

ME-14

Office Action Summary

Application No.

09/442,756

Applicant(s)

BEUTH ET AL.

Examiner

Sow-Fun Hon

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-12 and 14-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-12 and 14-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Response to Amendment

Rejections Withdrawn

1. The 35 U.S.C. 112, 2nd paragraph rejection in Paper # 14, paragraph 1 (12/06/01) of claims 18, 2, 4-12, 17 has been withdrawn due to Applicant's amendment in Paper # 15 (02/25/02).

2. The 35 U.S.C. 103(a) rejection in Paper # 14, paragraph 4 (12/06/01) of claims 18, 2, 4-12, 17 over Douchet et al. in view of Yu has been withdrawn due to Applicant's clarification in Paper # 15 (02/25/02).

Rejections Repeated

3. The 35 U.S.C. 103(a) rejection of claims 14-16 over Reimann et al. in view of Yamamoto et al. has been repeated for the same reasons previously of record in Paper # 14, paragraph 5 (12/06/01).

New Rejections

Claim Rejections - 35 USC § 103

4. Claims , 4-7, 9-12, 17-22, 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bouilloux et al.

Bouilloux et al. has pipes such as for cooling, situated under the hood of automobiles (column 1, lines 30-35) made from compositions comprising polyamide in amounts around 40 to 60 parts (column 14, lines 20-68), and LDPE in amounts around 40 parts. The compositions are

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taught to have a flexural Other polymers taught in lieu of LDPE are ethylene-propylene rubbers, SEBS, EPDM and ethylene-alkyl (meth)acrylate copolymers (column 5, lines 5-50) grafted with maleic anhydride (column 6, lines 10-15). Polyamide 12 (12-aminodecanoic acid condensation product) is taught (column 2, lines 50-68). Polyamide 6,3-T is part of the polyamide condensation product family. Since Bouilloux et al. teaches against the use of plasticizer which leaches out (exudes out), since there is no mention of the use of processing aids, and since the pipes are taught to carry coolant (used for cooling) which contains various forms of alcohol, it can be inferred that the composition would comprise not more than 1.6 to 2 % by weight of extractables. It is well known in the art to make laminated corrugated flexible pipes.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bouilloux et al. as applied to claims 2, 4-7, 9-12, 17-22, 24-28 above, and further in view of Jadamus (US 4,755,552).

Bouilloux et al. teaches the pipe with the polyamide composition, but fails to teach the use of polyalkenylene in lieu of LDPE as the flexible component.

Jadamus et al. has pipes (column 6, lines 15-25) made out of 80 to 98 % polyamide and 20 % polyalkenylene (polyalkenamer) (column 4, lines 20-30). Maleic anhydride is grafted on the polyalkenylene (column 3, lines 60-65). Jadamus et al. teaches that the polyalkenylene is an alternative to polyethylene (column 1, lines 35-45), thus teaching that it can be used in lieu of LDPE (low density polyethylene). In addition, Jadamus et al. teaches that the polyalkenylenes produce synergistic effects (column 4, lines 50-60).

Because Jadamus et al. teaches that polyalkenylene is an alternative to polyethylene and that it produces synergistic effects, it would have been obvious to one of ordinary skill in the art

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to have used it in lieu of the LDPE in the invention of Bouilloux et al. in order to obtain a pipe with synergistic effects on the desired properties

Response to Arguments

6. Applicant's arguments with respect to claims 2, 4-7, 9-12, 17-18 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments in Paper # 15 (02/25/02) with respect to claims 14-16 have been fully considered but they are not persuasive. Applicant argues that Reimann et al. is only concerned with the impact strength and does not disclose the flexibility of the product.

Applicant is respectfully reminded that Yamamoto et al. merely demonstrates that compositions comprising the claimed polymer components have the claimed tensile modulus of elasticity.

Yamamoto et al. teaches that the tensile modulus of elasticity of the thermoplastic elastomer composition of 30 to 500 parts by weight of a polyolefin component and 10 to 500 parts by weight of a polyamide ('503, column 3, lines 25-45) is 361 to 453 N/mm² (3690 to 4621 kgf/cm²) ('503, column 17, lines 55-60). The polyolefin component is taught to be ethylene-methyl acrylate copolymers, ethylene-ethyl acrylate copolymers, ethylene-propyl acrylate copolymers, ethylene-butyl acrylate copolymers ('503, column 5, lines 60-68 and column 6, lines 1-5). The polyamide component is taught to be nylon 612, nylon 11 and nylon 12 ('503, column 6, lines 30-40).

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Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

PHA
05/17/02


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

5/20/02